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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/848,231	05/04/2001	Barry Appelman	06975-130001	6250
26171	7590	10/01/2009		
FISH & RICHARDSON P.C. P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022				
EXAMINER				
KE, PENG				
ART UNIT		PAPER NUMBER		
2174				
NOTIFICATION DATE		DELIVERY MODE		
10/01/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: BARRY APPELMAN

Application No. 09/848,231
Technology Center 2100

Mailed: [Date of mailing]

Before Deborah L. Perry, Supervisory Paralegal Specialist, Review Team.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on August 17, 2009. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

PRIOR ORDER FOR RETURN

A prior "Order Returning Undocketed Appeal to Examiner" was mailed on July 14, 2009, wherein the Examiner was instructed that corrections were required. A review of the file finds that the required corrections have not been made in entirety. The matters still requiring attention prior to docketing are identified below.

EXAMINER'S ANSWER

STATUS OF CLAIMS AND AMENDMENTS AFTER FINAL

A review of the file finds that the appendix headings Status of Claims and the Amendments After Final as provided in the Examiner's Answer mailed August 5, 2009, is unclear and does not acknowledge Appellant's § 1.116 amendment filed on March 6, 2006. See 37 CFR § 41.33.

INFORMATION DISCLOSURE STATEMENT

Appellant filed an Information Disclosure Statement (IDS) dated March 12, 2007. There is no indication on the record that the Examiner has considered the above Information Disclosure Statement. MPEP § 609 requires the Examiner to consider any Information Disclosure Statement filed by Applicant if timely submitted. A written communication notifying Appellant of the Examiner's consideration of the above Information Disclosure Statement is required.

CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

1) issue and mail a PTOL-90 setting forth the correct status of the After Final Amendment and the Status of Claims and to correct any other discrepancies in the Answer as may be required. The Examiner may correct the appendix headings on a PTOL-90;

2) consider the Information Disclosure Statement filed March 12, 2007; and

3) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

DLP/bar

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